



#20

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED

FEB 27 2002

TECH CENTER 1600/2900

In re application of:

SETTE *et al.*

Appl. No. 09/412,863

Filed: October 5, 1999

For: **Inducing Cellular Immune
Responses To Human
Immunodeficiency Virus-1 Using
Peptide And Nucleic Acid
Compositions**

Confirmation No.

Art Unit: 1644

Examiner: Schwadron, R.

Atty. Docket: 2060.0040005/EKS/HCC

Supplemental Provisional Election Of Species

RECEIVED

FEB 27 2002

TECH CENTER 1600/2900

RECEIVED
FEB 25 2002
TC 1700

Commissioner for Patents
Washington, D.C. 20231

Sir:

Applicants respectfully request that the Examiner disregard the Provisional Election Of Species filed on February 14, 2002. Applicants hereby provisionally elect (a) the peptide AIFQSSMTK (SEQ ID NO:14442), and (b) the composition containing a T helper epitope. In view of this provisional election, new independent claim 108, and dependent claims 90-95, 109-146, 129-134, 165-170, 203-208, 235-240, and 260-265, added in the Third Preliminary Amendment filed February 14, 2002, read on the provisionally elected species, and claim 108 is generic. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

Applicants assert the right to claim additional species in the event that generic claims thereto are found to be allowable in accordance with 37 C.F.R. § 1.141(a). This election is made without traverse. Consideration and allowance of all pending claims are respectfully requested.

Interview

Applicants thank Examiners Schwadron and DiBrino for the courteous and helpful interview extended to Bob Chesnut, Alex Alessandro, and Grace Doh, all of Epimmune, and Applicants' representatives Eric Steffe and Helene Carlson on January 10, 2002.

As discussed during the interview, Applicants have organized the independent claims to include peptides having the same priority dates, to aid in examination. Thus, although the Amendment submitted herewith contains several independent claims, Applicants respectfully request examination of a reasonable number of peptides, notwithstanding the fact that they are recited in six independent claims (claims 71, 108, 147, 183, 215, and 241).

Applicants also provide in the attached **Table**, a list of each peptide recited in the independent claims, the location in and identity of the HIV antigen where the peptide is found,

and the filing date and serial number of the application in which the peptide was first disclosed by Applicants.

It is believed that extensions of time are not required, beyond those that may otherwise be provided for in accompanying documents. However, in the event that additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036. A duplicate copy is enclosed.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Helene C. Carlson
Agent for Applicants
Registration No. 47,473

Date: 2/22/02
1100 New York Avenue, N.W.
Suite 600
Washington, D.C. 20005-3934
(202) 371-2600

Table 2 – Peptides (Updated)

<u>SEQ ID NO (claim)</u>	<u>Antigen</u>	<u>Priority Date</u>	<u>Priority Appl. No.</u>
14422 (71)	HIV gag 386	3/5/93	08/027,146
14457 (108)	HIV pol 684	8/6/93	08/103,396
14458 (147)	HIV gag 317	8/6/93	08/103,396
14459 (108)	HIV pol 368	8/6/93	08/103,396
14460 (108)	HIV pol 295	8/6/93	08/103,396
14461 (108)	HIV pol 533	8/6/93	08/103,396
14463 (108)	HIV pol 530	8/6/93	08/103,396
14466 (147)	HIV env 671	8/6/93	08/103,396
14439 (108)	HIV pol 722	8/6/93	08/103,396
14440 (108)	HIV pol 971	8/6/93	08/103,396
14441 (108)	HIV pol 353	8/6/93	08/103,396
14442 (108)	HIV pol 347	8/6/93	08/103,396
14445 (147)	HIV env 47	8/6/93	08/103,396
14438 (108)	HIV pol 929	8/9/93	08/103,396
14446 (183)	HIV nef 100	11/29/93	08/159,339
14432 (241)	HIV env 134	3/4/94	08/205,713
14293 (215 & 241)	HIV env 814	3/4/94	08/205,713



**Sterne Kessler
Goldstein Fox**
ATTORNEYS AT LAW



Robert Greene Sterne
Edward J. Kessler
Jorge A. Goldstein
David K.S. Cornwell
Robert W. Esmond
Tracy-Gene G. Durkin
Michele A. Cimbalà
Michael B. Ray
Robert E. Sokohl
Eric K. Steffe
Michael Q. Lee
Steven R. Ludwig
John M. Covert
Linda E. Alcorn
Robert C. Millonig
Lawrence B. Bugalsky
Donald J. Featherstone
Michael V. Messinger

Judith U. Kim
Timothy J. Shea, Jr.
Patrick E. Garrett
Jeffrey T. Helvey
Heidi L. Kraus
Crystal D. Sayles
Edward W. Yee
Albert L. Ferro
Donald R. Banowitz
Peter A. Jackman
Molly A. McCall
Teresa U. Medler
Jeffrey S. Weaver
Kendrick P. Patterson
Vincent L. Capuano
Albert J. Fasulo II
Eldora Ellison Floyd
W. Russell Swindell

Thomas C. Fiala
Brian J. Del Buono
Virgil Lee Beaston
Reginald D. Lucas
Kimberly N. Reddick
Theodore A. Wood
Elizabeth J. Haanes
Bruce E. Chalker
Joseph S. Ostroff
Frank R. Cottingham
Christine M. Lhulier
Rae Lynn Pngamam
Jane Shershenovich
Lawrence J. Carroll

Senior Counsel
Samuel L. Fox
Kenneth C. Bass III

Registered Patent Agents
Karen R. Markowicz
Andrea J. Kamage
Nancy J. Leith
Joseph M. Conrad III
Ann E. Summerfield
Helene C. Carlson
Gaby L. Longworth
Matthew J. Dowd
Aaron L. Schwartz
Angelique G. Uy
Boris A. Matvenko
Mary B. Tung

* Admitted only in Maryland
* Admitted only in Virginia
* Admitted only in Texas

February 22, 2002

WRITER'S DIRECT NUMBER:
(202) 371-2641

INTERNET ADDRESS:
HCARLSON@SKGF.COM

RECEIVED

FEB 27 2002

TECH CENTER 1600/2900

Commissioner for Patents
Washington, D.C. 20231

Re: U.S. Utility Patent Application
Appl. No. 09/412,863; Filed: October 5, 1999
For: **Inducing Cellular Immune Responses To Human Immunodeficiency
Virus-1 Using Peptide And Nucleic Acid Compositions**
Inventors: SETTE *et al.*
Our Ref: 2060.0040005/EKS/HCC
Art Unit: 1644

Sir:

Transmitted herewith for appropriate action are the following documents:

1. Supplemental Provisional Election of Species with attached Table; and
2. One return postcard.

It is respectfully requested that the attached postcard be stamped with the date of filing of these documents, and that it be returned to our courier. In the event that extensions of time are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned.

RECEIVED

FEB 25 2002

TC 1700

Commissioner for Patents
February 22, 2002
Page 2

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency,
or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Helene C. Carlson
Agent for Applicants
Registration No. 47,473

EKS/HCC/eak

Enclosures

P:\USERS\H\CARLSON\2060\004\004-5\Procvltr.2-21-02
SKGF Rev. 1/24/02 mac